

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

AGA Medical Corp.,

Plaintiff,

v.

W. L. Gore & Associates, Inc.,

Defendant.

No. 0:10-cv-03734-JNE-JSM

**DECLARATION OF JONATHAN D. CARPENTER IN SUPPORT OF
AGA MEDICAL CORP.’S MEMORANDUM OF LAW IN OPPOSITION TO W.L.
GORE & ASSOCIATES, INC.’S MOTION FOR SUMMARY JUDGMENT**

I, Jonathan D. Carpenter, hereby declare as follows:

1. I am an attorney with the law firm of Carlson, Caspers, Vandenburg, Lindquist & Schuman, P.A., counsel for plaintiff AGA Medical Corporation (“AGA”) in the above-captioned matter. This declaration is submitted on behalf of AGA in support of its Memorandum of Law in Opposition to W.L. Gore & Associates, Inc.’s (“Gore”) Motion for Summary Judgment. This declaration is made on my own personal knowledge, except as otherwise indicated.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the March 6, 2013 deposition of Kaushik Bhattacharya, Ph.D. (designated as “Confidential – Outside Attorneys’ Eyes Only”) which is **Filed Under Seal**.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the February 15, 2013 Noninfringement Expert Report of Dr. Robert C. Gorman (designated as “Confidential – Outside Attorneys’ Eyes Only”) which is **Filed Under Seal**.

4. Attached hereto as **Exhibit 3** is a true and correct copy of United States Patent No. 5,944,738 (“the ‘738 patent”).

5. Attached hereto as **Exhibit 4** is a true and correct copy of the file history for U.S. Utility Patent Application for Patent Number 5,944,738 (“Prosecution History”) produced by AGA as AGA_GORE0017704-AGA_GORE0017788.

6. Attached hereto as **Exhibit 5** is a true and correct copy of the January 14, 2012 Invalidity Expert Report of Dr. Robert C. Gorman (designated as Confidential – Outside Attorneys’ Eyes Only”) which is **Filed Under Seal**.

7. Attached hereto as **Exhibit 6** is a true and correct copy of the March 6, 2013 deposition transcript of Charles E. Mullins, M.D.

8. Attached hereto as **Exhibit 7** are true and correct copies of the March 12-13, 2013 deposition transcripts (Volumes I and II) of Robert C. Gorman, M.D. (containing pages designated as “Highly Confidential”) which are **Filed Under Seal**.

9. Attached hereto as **Exhibit 8** is a true and correct copy of the article “New Self-Expanding Patent Foramen Ovale Occlusion Device,” by Young-Min Han, M.D., et al., Catheterization and Cardiovascular Interventions 47:370-376 (1999).

10. Attached hereto as **Exhibit 9** is a true and correct copy of the March 4, 2013 deposition transcript of Alexander J. Javois, M.D. (designated as “Confidential – Outside Attorneys’ Eyes Only”) which is **Filed Under Seal**.

I state under penalty of perjury that the foregoing is true and correct.

Dated: May 1, 2013

s/ Jonathan D. Carpenter
Jonathan D. Carpenter